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09/905,355	07/13/2001	Yuichiro Deguchi	SONI-6800	3808
7590	03/03/2005		EXAMINER	
Valley Oak Law 5655 Silver Creek Valley Road #106 San Jose, CA 95138			STRANGE, AARON N	
			ART UNIT	PAPER NUMBER
			2153	

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/905,355	DEGUCHI, YUICHIRO	
	Examiner	Art Unit	
	Aaron Strange	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 04 February 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-51 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 January 2005 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 02/04/2005
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The reference listed as 2003/00293421 (Finn et al.) on page 3 of the IDS received 2/4/2005 has not been considered because the document number is incorrect.

Response to Arguments

2. Applicant's arguments filed 1/12/05 have been fully considered but they are not persuasive.

3. With regard to claims 1,21,44, and 51, Applicant's assertion that Tarboreich fails to disclose that "identification of the content is independent of the frequency detected by the data marker device" (Remarks, Page 14, Lines 1-3) is unclear. The specification does not disclose whether the data marker device in the present application is even capable of detecting a frequency. Therefore, it is unclear how the identification may be independent of the frequency detected by the device if such a frequency is not detected.

4. With regard to claims 1,21,44, and 51, and Applicant's assertion that Tarboreich fails to disclose that "identification of the content is independent of the frequency detected by the data marker device" (Remarks, Page 14, Lines 1-3), it should be noted that the amendment to claim 51, while similar, differs in scope.

The language of amended claim 51 states that "identification of the content is independent of detection by a data marker device of a frequency at which the content is

broadcasted". The Assertion relies on the identification being independent of the detected frequency, but the claim language states that the identification is independent of the data marker device detecting the frequency at which the content is broadcasted. The detected frequency is data related to the content while the detection of the frequency is a step performed by the data marker device.

Tarbourneich discloses that the identification of the content (server identifies content based on data received from device via a client computer) (Col 6, Lines 30-47 and Col 7, Lines 20-48) is independent of detection by a data marker device of a frequency at which the content is broadcasted (device detects and record frequency at the same time as the timestamp) (Col 5, Lines 43-53). The detection step occurs at the data marker device at the time of activation. The identification step occurs after the device is connected to a client computer and the timestamps are transmitted to the server. The actual identification may occur via a web page, fax, e-mail, phone, or even regular mail. Therefore, the identification of the content is independent of the detection by the data device of a frequency at which the content is broadcasted.

Claim Objections

5. Claim 51 is objected to because of the following informalities: Appropriate correction is required.

6. With regard to claim 51, there appears to be a typographical error "to the each one" in line 7. The Office recommends that the claim be amended to recite "to each of the one".

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1-51 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

9. With regard to claims 1,21,44, and 51, the limitation "wherein identification of the content is independent of detection by the data marker device of a frequency at which the content is broadcasted" is not described in the specification. No mention of the data marker device detecting or not detecting a frequency of the content appears in the specification.

It appears that Applicant may have been attempting to claim that identification of the content occurs without identifying the frequency of the broadcasted content.

However, the mere fact that the specification did not disclose "detection by the data marker device of a frequency at which the content is broadcasted" does not preclude such a step from occurring.

10. All claims not individually rejected are rejected by virtue of their dependency from the above claims.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claim 51 is rejected under 35 U.S.C. 102(e) as being anticipated by Tarboureich et al. (US 6,650,877).

13. With regard to claim 51, Tarboureich discloses a system for identifying a time specific event, comprising: means for storing one or more time stamps (Col 5, Lines 48-49) and a device identification code (Col 7, Lines 32-34); means for generating a reference time information (Synchronization time) (Col 19, Lines 9-14); means for

receiving the one or more time stamps and the device identification code (Physical parameters are uploaded) (Col 17, Lines 38-48), and the reference time information (Col 18, Lines 56-66); and means for determining a time information corresponding to the each one or more time stamps (derive activation times) (Col 19, Lines 9-14), wherein the one or more time stamps represents content that is broadcasted (radio broadcast) (Col 5, Lines 44-49) and wherein identification of the content (server identifies content based on data received from device via a client computer) (Col 6, Lines 30-47 and Col 7, Lines 20-48) is independent of detection by a data marker device of a frequency at which the content is broadcasted (device detects and record frequency at the same time as the timestamp) (Col 5, Lines 43-53).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1-13,16-32,35-37, and 40-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tarboureich et al. (US 6,650,877) in view of Doyle et al.

16. With regard to claim 1, Tarboureich et al. (Tarboureich, hereafter) discloses a system for identifying a time specific event, comprising: a data marker device configured to store one or more time stamps (Col 5, Lines 48-49) and a device identification code (Col 7, Lines 32-34); a server terminal configured to generate a reference time information (Synchronization time) (Col 19, Lines 9-14); a user terminal configured to receive the one or more time stamps and the device identification code from the data marker device (Col 7, Lines 28-34), and send the timestamps and the device identification code to the server terminal (Col 17, Lines 38-48); determining a time information corresponding to the each one or more time stamps at the server (derive activation times) (Col 19, Lines 9-14). Tarboureich further discloses that the one or more time stamps represents content that is broadcasted (radio broadcast) (Col 5, Lines 44-49) and wherein identification of the content (server identifies content based on data received from device via a client computer) (Col 6, Lines 30-47 and Col 7, Lines 20-48) is independent of detection by a data marker device of a frequency at which the content is broadcasted (device detects and record frequency at the same time as the timestamp) (Col 5, Lines 43-53). However, Tarboureich fails to disclose that the *user terminal* receives the reference time information from the server terminal and determines the time information corresponding to the time stamps. In the system disclosed by Tarboureich, *the server* receives the time stamps from the client and determines the time information corresponding to the time stamps itself.

Nonetheless, Doyle et al. (Doyle, hereafter) teach that the offloading of processing from a server as a means to reduce both the load on the server and

congestion in the network near the server is well known. (Doyle, Page 6, Paragraph 1). Since each user of the system disclosed by Tarboureich has an individual sensing unit, the amount of calculation required for the server to determine the time information corresponding to each time stamp for every user would get very large as the number of users grew. With a sufficiently large number of users, the server may have become overloaded and unusable (Doyle, Page 5, Paragraph 1). This would have required very expensive server upgrades to keep up with demand (Doyle, Page 6, Paragraph 4) By performing this calculation for each user on their client, which typically has sufficient CPU cycles free to process the calculations, the load on the server would have been drastically reduced, improving the speed and reliability of the system for the users and reducing the cost for the service provider.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention as made to offload the calculation of the time information corresponding to the time stamps from the server to the client of each user since this will drastically reduce the load on the server when large numbers of users are accessing the system. This would have improved the speed and reliability of the system for the users and reduced the server cost for the service provider.

17. With regard to claim 2, Tarboureich further discloses that each of the one or more time stamps stored in the data marker device is generated responsive to a user input operation of the data marker device (User activates device)(Col 5, Lines 44-49).

18. With regard to claim 3, Tarboureich further discloses that the data marker device includes a clock (Fig 2, 16), and each of the one or more time stamps corresponds to a respective signal from the dock (device records time of activation)(Col 5, Lines 44-49).

19. With regard to claim 4, Tarboureich further discloses that the clock is configured to increment in a one-second interval (Clock resolution is 1 second)(Col 18, Lines 29-31).

20. With regard to claim 5, Tarboureich further discloses that the device identification code includes one of a predetermined length numeric sequence, a predetermined length letter sequence, and a predetermined length combination of numeric and letter sequence (Unique identification or serial number) (Col 7, Lines 32-34).

21. With regard to claim 6, Tarboureich further discloses that the data marker device includes an electronic music marker (marks time of radio songs) (Col 5, Lines 44-49).

22. With regard to claim 7, while the system disclosed by Tarboureich shows substantial features of the claimed invention (discussed above), including that the reference time information includes a time information corresponding substantially to the initial connection between the data marker device and the user terminal (Synchronization time)(Col 18, Lines 15-18 and Col 18, Line 56 to Col 19, Line 14), it fails to specifically disclose that this is a GMT time.

However, GMT is the well-known worldwide standard for describing a time and date. GMT is the same everywhere in the world, and provides a simple way to represent the time without requiring conversion between time zones. It would have been advantageous to use GMT to represent the time since it would allow the device to work in any time zone without requiring conversion of the time.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use GMT to represent the time in the system since it allows the device to function across time zones without requiring any conversion.

23. With regard to claim 8, Tarboureich further discloses that the user terminal is configured to transmit a request signal (log-in) to the server terminal when the data marker device establishes connection to the user terminal (Communication with server is done via client computer) (Col 7, Lines 20-21).

24. With regard to claim 9, as discussed regarding claim 1, it would have been advantageous to generate and transmit the reference time information to the user terminal in response to a request signal for the reference time received from the user terminal, since calculating the time information corresponding to the timestamps would have greatly reduced the load on the server.

25. With regard to claim 10, Tarboureich further discloses that the connection between the data marker device and the user terminal includes one of a USB

connection, a parallel connection, a serial connection, an IrDA connection and a Bluetooth connection (Col 7, Lines 41-48).

26. With regard to claim 11, the system disclosed by Tarboureich in view of Doyle further discloses that time information determined by the user terminal corresponding to the each one or more time stamps is based on the reference time information (Time is calculated based on synchronization time and timestamps)(Tarboureich, Col 19, Lines 9-14).

27. With regard to claim 12, Tarboureich further discloses that the user terminal is further configured to transmit the one or more time stamps, the device identification code the reference time information and the time information corresponding to the each one or more time stamps to the server terminal (Physical parameters are uploaded) (Col 17, Lines 38-48).

28. With regard to claim 13, Tarboureich further discloses that the user terminal is further configured to receive a receipt acknowledgement signal from the server terminal upon termination of transmission of the one or more time stamps, the device identification code, the reference time information and the time information corresponding to the each one or more time stamps to the server terminal (Feedback is received from server) (Col 17, Lines 43-47).

29. With regard to claim 16, Tarboureich further discloses that the user terminal includes one of a personal computer, an Internet access enabled personal digital assistant, a Wireless Application Protocol enabled mobile telephone, and an I-mode enabled mobile telephone (client computers) (Col 7, Lines 20-21).

30. With regard to claim 17, Tarboureich further discloses a data network, the server terminal and the user terminal coupled to the data network (Col 6, Line 64 to Col 7, Line 10).

31. With regard to claim 18, Tarboureich further discloses that the data network includes one of a Local Area Network (LAN), a Wide Area Network (WAN), and an Internet connection (Col 6, Line 64 to Col 7, Line 10).

32. With regard to claim 19, Tarboureich further discloses that the server terminal and the user terminal are coupled to the data network using one of a TCP/IP protocol and a wireless application protocol (The Internet uses TCP/IP)(Col 6, Line 64 to Col 7, Line 10).

33. With regard to claim 20, Tarboureich further discloses that the user terminal includes an output unit, the user terminal further configured to launch an Internet browser for display in the output unit (Col 7, Lines 20-24).

34. With regard to claim 21, Tarboureich discloses a system for identifying a time specific event, comprising: a data marker device configured to store one or more time stamps (Col 5, Lines 48-49), each of the one or more time stamps generated responsive to a user input operation (User activates device)(Col 5, Lines 44-49), and a device identification code (Col 7, Lines 32-34); a data network (Col 6, Line 64 to Col 7, Line 10); a server terminal coupled to the data network configured to generate a reference time information (Synchronization time)(Col 19, Lines 9-14); and a user terminal coupled to the data network configured to receive the one or more time stamps and the device identification code from the data marker device (Col 7, Lines 28-34), and a reference time information substantially corresponding to a time point when the data marker device establishes connection with the user terminal (Synchronization time)(Col 18, Lines 15-18 and Col 18, Line 56 to Col 19, Line 14). Tarboureich further discloses that the one or more time stamps represents content that is broadcasted (radio broadcast) (Col 5, Lines 44-49) and wherein identification of the content (server identifies content based on data received from device via a client computer) (Col 6, Lines 30-47 and Col 7, Lines 20-48) is independent of detection by a data marker device of a frequency at which the content is broadcasted (device detects and record frequency at the same time as the timestamp) (Col 5, Lines 43-53). However, Tarboureich fails to disclose the *user terminal* receiving the reference time information from the server terminal. In the system disclosed by Tarboureich, *the server receives*

the time stamps from the client and determines the time information corresponding to the time stamps itself.

Nonetheless, Doyle et al. (Doyle, hereafter) teach that the offloading of processing from a server as a means to reduce both the load on the server and congestion in the network near the server is well known. (Doyle, Page 6, Paragraph 1). Since each user of the system disclosed by Tarboureich has an individual sensing unit, the amount of calculation required for the server to determine the time information corresponding to each time stamp for every user would get very large as the number of users grew. With a sufficiently large number of users, the server may have become overloaded and unusable (Doyle, Page 5, Paragraph 1). This would have required very expensive server upgrades to keep up with demand (Doyle, Page 6, Paragraph 4) By performing this calculation for each user on their client, which typically has sufficient CPU cycles free to process the calculations, the load on the server would have been drastically reduced, improving the speed and reliability of the system for the users and reducing the cost for the service provider.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention as made to offload the calculation of the time information corresponding to the time stamps from the server to the client of each user since this will drastically reduce the load on the server when large numbers of users are accessing the system. This would have improved the speed and reliability of the system for the users and reduced the server cost for the service provider.

35. Claims 22-26 are rejected for the same reasons cited for claims 3-7, respectively.

36. Claim 27, 28 and 29 are rejected for the same reasons cited for claims 10, 8, and 9, respectively.

37. Claims 30-32 are rejected for the same reasons cited for claims 11-13, respectively.

38. Claim 35 is rejected for the same reasons cited for claims 8 and 9, collectively.

39. Claims 36,37,40, and 41 are rejected for the same reasons cited for claims 12,13,16, and17, respectively.

40. Claims 42 and 43 are rejected for the same reasons cited for claims 19 and 20, respectively.

41. With regard to claim 44, Tarboureich discloses a method, comprising: receiving one or more time stamps (Col 5, Lines 48-49); receiving a data marker device identification code (Col 7, Liens 32-34); determining a time information corresponding to each of the one or more time stamps (derive activation times) (Col 19, Lines 9-14); and transmitting data including the one or more time stamps, the data marker device identification code, the reference time information, and the time information

corresponding to each of the one or more time stamps (Physical parameters are uploaded) (Col 17, Lines 38-48). Tarboureich further discloses that the one or more time stamps represents content that is broadcasted (radio broadcast) (Col 5, Lines 44-49) and wherein identification of the content (server identifies content based on data received from device via a client computer) (Col 6, Lines 30-47 and Col 7, Lines 20-48) is independent of detection by a data marker device of a frequency at which the content is broadcasted (device detects and record frequency at the same time as the timestamp) (Col 5, Lines 43-53). However, Tarboureich fails to disclose transmitting a request for reference time information and receiving the reference time information based on the transmitting step. In the system disclosed by Tarboureich, *the server* receives the time stamps from the client and determines the time information corresponding to the time stamps itself.

Nonetheless, Doyle et al. (Doyle, hereafter) teach that the offloading of processing from a server as a means to reduce both the load on the server and congestion in the network near the server is well known. (Doyle, Page 6, Paragraph 1). Since each user of the system disclosed by Tarboureich has an individual sensing unit, the amount of calculation required for the server to determine the time information corresponding to each time stamp for every user would get very large as the number of users grew. With a sufficiently large number of users, the server may have become overloaded and unusable (Doyle, Page 5, Paragraph 1). This would have required very expensive server upgrades to keep up with demand (Doyle, Page 6, Paragraph 4) By performing this calculation for each user on their client, which typically has sufficient

CPU cycles free to process the calculations, the load on the server would have been drastically reduced, improving the speed and reliability of the system for the users and reducing the cost for the service provider.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to offload the calculation of the time information corresponding to the time stamps from the server to the client of each user since this will drastically reduce the load on the server when large numbers of users are accessing the system. This would have improved the speed and reliability of the system for the users and reduced the server cost for the service provider.

42. With regard to claim 45, Tarboureich further discloses including establishing a connection using a data transfer protocol (The Internet uses TCP/IP)(Col 6, Line 64 to Col 7, Line 10).

43. Claims 46,47, and 50 are rejected for the same reasons cited for claims 11,13, and 20, respectively.

44. With regard to claim 48, Tarboureich further discloses erasing the time stamps from the data marker device (Col 18, Lines 19-21).

45. With regard to claim 49, while the system disclosed by Tarboureich in view of Doyle shows substantial features of the claimed invention (discussed above), it fails to

specifically disclose powering off the data marker device. However, the data marker device is battery powered (Col 8, Lines 45-47), and it is well known in the art to power off a device as a means to conserve battery usage.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to power off the data marker device since this would conserve battery life of the unit.

Conclusion

46. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

47. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

48. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AS 2/28/2005



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